

## Remarks

### *Support for New Claims*

New claims 63-65 have been added. Support for these claims are found in Figure 4. In Example 6 depicted in Figure 4, *Brassica juncea* plants were grown for 4 weeks, at which times five different levels (5, 10, 20, 30, and 40 mg) of sodium selenate were added to the growth medium. Plants were grown for an additional week, at which time shoots were harvested and total Se concentration was determined. The plant had accumulated selenium in its edible portions to a concentration of at least about 2000 mg/kg dry weight at the 20 mg treatment level, 1500 mg/kg dry weight at the 10, 30 or 40 mg treatment level, and about 1000 mg/kg at the 5 mg treatment level. Applicants respectfully submit that new claims 63-65 are fully supported by the specification and figures, and therefore, no new matter is being added.

### *Remarks*

Examiner has indicated during a telephone conversation with the Attorney of Record, that Applicant should distinguish the present claims over Rosenfeld and Beath "Selenium, geobotony, biochemistry, toxicity and nutrition", 1964 (herein "Rosenfeld") cited by Banuelos *et. al*, "Accumulation of Selenium in Plants Grown on Selenium-Treated Soil," J. Environ. Qual., Vol. 19:772-777 (herein "Banuelos") for the premise that "Group 1 plants, which accumulate from 1000 to 10,000 mg/kg, include species from *Astragalus*, *Brassica*, and *Stanleya*."

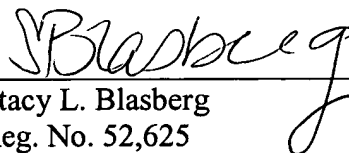
Independent claims 49 and 63-65 of the present invention are drawn to a method of producing an edible Brassicaceae plant whose edible portions comprise significant concentrations of selenium, including growing an edible Brassicaceae plant in an environment that contains selenium under conditions that allow the plant to accumulate selenium in its edible portions, and harvesting the plant after it has accumulated selenium in its *edible portions* to a *concentration that is several fold higher than that of the selenium in the environment*, wherein the concentration of the edible portions is at least about 1000, 1500 or 2500 mg/kg dry weight, and wherein at least 20% of the accumulated selenium is in the form of Se-methylselenocysteine. Claims 57-58 depend from independent claim 49.

Rosenfeld lists plants that accumulate selenium when growing in their natural environments. There is no indication that Rosenfeld teaches or suggests a method of producing an edible *Brassicaceae* plant whose edible portions comprise significant concentrations of

selenium, including growing an edible Brassicaceae plant in an environment that contains selenium under conditions that allow the plant to accumulate selenium in its edible portions, and harvesting the plant after it has accumulated selenium in its *edible portions to a concentration that is several fold higher than that of the selenium in the environment*. Furthermore, Applicant notes that contrary to what Banuelos states, Rosenfeld does not disclose *Brassica* that accumulates from 1000 to 10,000 mg/kg. Accordingly, Applicant respectfully requests that Rosenfeld does not teach or suggest the present invention.

Based on the above, Applicants respectfully request that the Examiner reconsider and withdraw all outstanding rejections and objections. Favorable consideration and allowance is earnestly solicited. Please charge any necessary fees or credit any overpayments to our Deposit Account No. 03-1721.

Respectfully submitted,

  
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Dated: 9/20/04

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